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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,695	12/08/2000	Gutman Levitan	HBK-02802/03	2885

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EXAMINER

SLOAN, NATHAN A

ART UNIT PAPER NUMBER

2614

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,695

Applicant(s)

LEVITAN ET AL.

Examiner

Nathan A Sloan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Response to Amendment

The following new grounds of rejection is in response to applicant canceling all previously pending claims 1-7 and adding new claims 8-11.

Claim Objections

1. Claim 11 is objected to because of the following informalities: there is a lack of antecedent basis for "said means for transmitting a timetable file" It appears applicant intended claim 11 to depend on claim 10, which is how it will be treated for the purposes of this office action. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 8-11 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Rosser (6,446,261).

Rosser teaches a communication system and method with demographically defined audiences for providing targeted commercials.

With respect to claim 8, the claimed system "for delivery of different versions of the same television program depending on viewer's information stored viewer's receiver" is

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met by Rosser with reference to Figure 4, showing a receiver system storing a demographic profile at 170. A plurality of "basic channels for transmitting primary versions of television programs containing commercials that may be replaced by alternative video fragments for producing alternative versions of those television programs" are provided via sources 134 and 136. Alternative commercials are provided over an alternative video or television feed as taught in col. 13:13-23. Default programming and commercial alternatives are transmitted to receivers in the network which compare locally stored (170 of Fig. 4) personal profile / demographic data to select a targeted commercial for display (col. 4:31-41). Once a commercial is identified as a match for the local profile, the commercials is substituted "for commercials transmitted with the program material under control of the stored profile of the viewer's demographic information" as claimed (col. 13:37-40). These commercials are retrieved from local storage 152 and displayed to viewers as taught in col. 13:24-36.

With respect to claim 9, the claimed transmission of commercial segments over a tv channel is met as seen in Fig. 4 by receiving commercials over tv channels using tuner 142 as noted above.

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With respect to claims 10-11, Rosser teaches the claimed descriptive and time/channel timetable relating to commercials which are stored in col. 15:55+ through col. 16:10 for determining when and which commercial to select for presentation to a viewer.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hite (5,774,170) teaches a system and method for delivering targeted advertisements to consumers using local storage.

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Wilkins (5,446,919) and Wachob (5,155,591) teach a system for providing targeted advertisements to users based on locally stored demographic data.


Walker (3,639,686) teaches a television receiver using auxiliary channels to receive substitute advertisements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan A Sloan whose telephone number is (703) 305-8143. The examiner can normally be reached on Mon-Fri 7:30am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (703)305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NAS


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